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HUMAN RIGHTS COMMITTEE
Sixty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Armenia

1. The Committee considered the initial report of Armenia (CCPR/C/92/Add.2) at its 1710th and 1711th meetings (CCPR/C/SR.1710-1711) held on 26 October 1998 and adopted the following concluding observations at its 1721st and 1725th meetings (CCPR/C/SR.1721 and 1725) held on 2 and 4 November 1998.

A. Introduction

2. Although it notes the long delay in the submission of the report, the Committee welcomes the initial report of the State party, covering events that occurred from the country's independence, and the dialogue with the delegation on the implementation of the provisions of the Covenant. It appreciates the frankness with which the State party acknowledges the current problems, which are partly attributable to the fact that the country is in a period of transition, and its willingness to provide further information in writing.

B. Positive aspects

3. The Committee commends the State party for the process currently under way to bring its legislation fully into line with its international obligations. It welcomes the establishment of the Constitutional Commission to review the Constitution and the adoption of the law on the independence of the judiciary, the law on the Public Prosecutor's Office, the Criminal and Civil Codes, the law on civil and criminal procedure, the Labour Code, the Electoral Code, the law on citizenship and the laws on the rights of the child. It looks forward to receiving these new laws once they come into force.

4. The Committee notes with satisfaction the establishment of the Commission on Human Rights as an advisory body to the President of the Republic, with competence to review draft legislation affecting human rights and fundamental freedoms. It notes the setting up of a Human Rights Department within the Ministry of Foreign Affairs. The Committee further welcomes the proposal to establish the office of Ombudsmen with power to deal with individual complaints.

5. The Committee commends the State party for its expressed intention to abolish the death penalty by 1 January 1999, which will automatically affect all persons currently on death row.

6. The Committee welcomes the release of political prisoners in Armenia following the last presidential elections. In this connection, it notes with satisfaction that non-governmental organizations have been given the important role of visiting prisoners and making spot checks. In this connection, the Committee notes the role played by the Committee of Soldiers' Mothers in addressing complaints within military garrisons. In addition, the Committee notes the agreement with the International Committee of the Red Cross giving ICRC representatives access to detainees in Armenia.

C. Principal subjects of concern and recommendations

7. The Committee expresses its grave concern about the incompatibility of several provisions of the Constitution with the Covenant: for example, article 22 of the Constitution, which guarantees freedom of movement only to Armenian citizens, contravenes article 12 of the Covenant; articles 23, 44 and 45 of the Constitution, which allow derogation under a state of emergency and limitations to the freedom of thought and religion, contravene articles 4, paragraph 2, and 18 of the Covenant. The inconsistency of domestic law with provisions of the Covenant not only engenders legal insecurity, but is likely to lead to violations of rights protected under the Covenant.

8. The Committee notes that the independence of the judiciary is not fully guaranteed. In particular, it observes that the election of judges by popular vote for a fixed maximum term of six years does not ensure their independence and impartiality.

9. The Committee is concerned that pursuant to article 101 of the Constitution only representatives of the executive and legislative branches may have recourse to the Constitutional Court. The Committee recommends that the State party amend its Constitution so as to enable individuals, in appropriate circumstances, to bring questions concerning human rights guaranteed in the Constitution, many of which are also protected in the Covenant, to the Constitutional Court.

10. The Committee takes note that the new Criminal Code provides for the abolition of the death penalty, and recommends that the death sentences of

all persons currently on death row be immediately commuted. The Committee hopes that the State party will consider ratification of the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

11. The Committee is concerned that all the grounds for pre-trial detention are not listed in the present law. While noting that the new Criminal Code provides for a maximum period of three months' detention, the Committee is concerned that very few detainees benefit from bail, and urges the State party to observe strictly the requirements of article 9, paragraph 3, of the Covenant.

12. The Committee expresses its concern about allegations of torture and ill-treatment by law-enforcement officials. The Committee recommends the establishment of a special independent body to investigate complaints of torture and ill-treatment by law enforcement personnel.

13. The Committee is concerned about the poor conditions prevailing in prisons. It reminds the State party that all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person, and recommends that the State party observe the Standard Minimum Rules for the Treatment of Prisoners.

14. The Committee observes that de facto discrimination against women persists as a matter of custom and stresses that this problem should be addressed in the light of Armenia's obligations under the Covenant.

15. The Committee is concerned about discrimination against women in employment and their under-representation in the conduct of public affairs. Furthermore, the Committee regrets the disproportionate level of unemployment among women, which has been explained by the delegation as being due to economic hardship.

16. The lack of data on cases of domestic violence should not be interpreted to mean that no such incidents occur. The Committee therefore recommends that specific protection and punitive measures be taken with respect to all forms of violence against women, including rape. The Committee urges the State party to compile relevant data for submission in the next periodic report.

17. The Committee is concerned as to the existence of the phenomenon of street children in Armenia. The State party must urgently address this issue under article 24 of the Covenant.

18. The Committee regrets the lack of legal provision for alternatives to military service in case of conscientious objection. The Committee deplores the conscription of conscientious objectors by force and their punishment by military courts, and the instances of reprisals against their family members.

19. The Committee is concerned that registration of religions is required and that the number of followers required for registration has

been increased. The Committee also notes that non-recognized religions are discriminated against in their entitlement to own private property and to receive foreign funds.

20. The Committee is concerned about the compatibility of the 1991 Press Law with freedom of expression under article 19 of the Covenant, in particular that the notion of "State secrets" and of "untrue and unverified information" (article 6 of the Press Law) are unreasonable restrictions on freedom of expression. Furthermore, the Committee is concerned about the extent of the Government's monopoly in respect of printing and distribution of newspapers.

21. The Committee expresses its concern about the strict governmental control over electronic media, which may raise issues under article 19 and which results in serious limitations to the exercise of the rights guaranteed in article 25, in particular with regard to elections.

22. The Committee expresses its concern about the State party's position that it is not possible to ensure that small national minorities have access to educational facilities in their language of origin. The Committee recommends that measures be taken in conformity with article 27 of the Covenant.

23. The Committee commends the State party for its efforts in disseminating information on human rights, including human rights education in school curricula. In particular, the Committee observes that human rights training of the legal profession and of the judiciary is necessary for democracy. Therefore, the Committee recommends that such training be provided. The Committee urges the State party to disseminate widely its initial report and the Committee's concluding observations.

24. The Committee has fixed the date for submission of Armenia's second periodic report to be October 2001.